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8 Postmaster General of the United States

9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 KATHERINE WILLIAMS,) No. C 07-4894 SBA
13 Plaintiff,)
14 v.) ANSWER OF FEDERAL DEFENDANT
15 JOHN E. POTTER, Postmaster General of) JOHN E. POTTER
the United States Postal Service)
16 Defendant.)
17 _____)

18 Defendant John E. Potter, Postmaster General of the United States Postal Service
19 ("Defendant"), through undersigned counsel, answers the Employment Discrimination
20 Complaint filed by plaintiff Katherine Williams on January 3, 2008. With respect to the
21 numbered paragraphs in the Complaint, defendant responds as follows:

22 1. Defendant is without sufficient knowledge to form a belief regarding plaintiff's
residency.

24 2. Admitted.

25 3. Paragraph 3 is comprised of a number of legal conclusions and a statement of
the basis for this lawsuit to which no response is required. To the extent that a response is
26 deemed necessary, defendant denies that plaintiff has merit under any of the provisions cited in
27 the paragraph.

1 4. The factual allegations in paragraph 4 are denied. In addition, the allegation in
2 paragraph 4 contains a characterization of this lawsuit to which no response is required. To the
3 extent that a response is deemed necessary, defendant denies that plaintiff's characterization of
4 this lawsuit has merit whatsoever.

5 5. Denied.

6 6. Denied.

7 7. The allegation in paragraph 7 is a legal conclusion to which no response is required.
8 To the extent that a response is deemed necessary, th allegation is denied.

9 8. Admitted.

10 9. Defendant is without sufficient knowledge to form a belief regarding plaintiff's receipt
11 of the Notice-of-Right-to-Sue letter from the Equal Employment Opportunity Commission.
12 Defendant admits that the issue date of the OFO Decision, which is incorporated in a statemet of
13 plaintiff's right to sue, was November 9, 2007.

14 10. Paragraph 10 is a demand for jury trial to which no response is required.

15 11. Paragraph 11 is a prayer for relief to which no response is required. To the extent
16 that a response is deemed necessary, defendant denies that plaintiff is entitled to any relief
17 whatsoever under her complaint.

18 **AFFIRMATIVE DEFENSES**

19 For further and separate answer, defendant alleges as follows:

20 12. Plaintiff fails to state a claim upon which relief can be granted.

21 13. Plaintiff has failed to exhaust administrative remedies.

22 14. All actions of the United States Postal Service being challenged by plaintiff were
23 taken for legitimate, nondiscriminatory and non-pretextual reasons.

24 15. Plaintiff is not entitled to recover punitive damages in this action.

25 16. Plaintiff failed to mitigate her damages, if any she suffered.

26 17. If defendant has engaged in any discriminatory or retaliatory actions, he
27 nevertheless is not liable because he would have engaged in the same adverse employment

1 || actions, if any, in the absence of such discrimination or retaliation.

2 18. The acts about plaintiff complains, or some of them, are not sufficiently severe as
3 to entitle plaintiff to relief.

4 19. Defendant is not liable for any discrimination if it has occurred because (1) he was
5 not actually or legally aware that such discrimination or retaliation occurred or (2) plaintiff did
6 not meet her obligations of informing defendant of such discrimination or retaliation or (3) both.

WHEREFORE, defendant prays that:

1. The complaint be dismissed;
 2. Plaintiff take nothing by this action;
 3. The Court enter judgment in favor of defendant, denying injunctive, declaratory, or
other form of equitable relief;
 4. The Court grant such other and further relief as it deems proper

Dated: March 17, 2008

Respectfully submitted,

**JOSEPH P. RUSSONIELLO
United States Attorney**

/s/
ABRAHAM A. SIMMONS
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she is causing a copy of the following:

ANSWER OF FEDERAL DEFENDANT JOHN E. POTTER

to be served this date upon the party in this action by placing a true copy thereof in a sealed envelope, and served as follows:

- FIRST CLASS MAIL by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

CERTIFIED MAIL (#) by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

PERSONAL SERVICE (BY MESSENGER)

FEDERAL EXPRESS via Priority Overnight

EMAIL

FACSIMILE (FAX)

to the party(ies) addressed as follows:

Katherine Williams, Pro Se
445 Fordham Circle
Vallejo, CA 94589
PH: 707.643.2423 FX:
Email:

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this March 17, 2008 at San Francisco, California.

/s/
LILY HO-VUONG
Legal Assistant